

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

James C. Hawkins,)	Civil Action No.: 2:18-cv-00893-JMC
)	
Plaintiff,)	
)	
v.)	
)	ORDER
Cpt. James McFadden,)	
)	
Defendant.)	
)	
_____)	

Plaintiff James C. Hawkins filed this civil rights action against Defendant Cpt. James McFadden pursuant to 42 U.S.C. § 1983 alleging violation of his constitutional rights related to the excessive use of force. (*See* ECF No. 1.) After the court entered an Order (ECF No. 86) addressing Defendant’s Motion for Summary Judgment (ECF No. 45), Plaintiff’s constitutional claim remains against Defendant. (*See* ECF No. 86 at 8.)

Section 1915(e)(1) provides that “the court may request an attorney to represent any person unable to afford counsel.” *Id.* However, “there is no absolute right to appointment of counsel [absent]. . . ‘exceptional circumstances.’” *Hall v. Holsmith*, 340 F. App’x 944, 946 (4th Cir. 2009) (quoting *Miller v. Simmons*, 814 F.2d 962, 966 (4th Cir. 1987)); *see also Whisenant v. Yuam*, 739 F.2d 160, 163 (1984) (“The power to appoint is a discretionary one, but it is an abuse of discretion to decline to appoint counsel where the case of an indigent plaintiff presents exceptional circumstances.”), *abrogated on other grounds by Mallard v. U.S. Dist. Court for S. Dist. of Iowa*, 490 U.S. 296 (1989). Exceptional circumstances exist where “it is apparent to the district court that a pro se litigant has a colorable claim but lacks the capacity to present it.” *Id.* at 163.

At this stage of the instant action, it has become clear that Plaintiff has a potentially meritorious claim which he is ill-equipped to litigate in a trial setting. Therefore, the court

APPOINTS Attorneys Robert Butcher, Esquire and Deborah J. Butcher, Esquire of The Camden Law Firm, PA and Brett A. Perry, Esquire of the Perry Law Firm, all located in Camden, South Carolina, as pro bono counsel to assist Plaintiff in this case and to represent him at trial. These attorneys are directed to contact Plaintiff, as soon as possible.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

December 11, 2019
Columbia, South Carolina